

NATURAL RESOURCES BOARD

Minutes

The regular meeting of the Natural Resources Board was held on Tuesday, April 22, 2003, in Room 027 of the State Natural Resources Building (GEF 2), Madison Wisconsin. The meeting was called to order at 2:05 p.m., recessed at 5:30 p.m., and reconvened April 23, 2003, at 8:30 a. m. All April Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair
 James E. Tiefenthaler, Vice Chair
 Gerald W. O'Brien, Secretary
 Herbert F. Behnke
 Jonathan P. Ela (April 23, 2003 arrived at 8:40 a.m.)
 Howard D. Poulson (April 23, 2003)
 Stephen D. Willett

ABSENT: Howard D. Poulson (April 22, 2003)

Chairman Solberg stated that this was Earth Day and called upon Acting Deputy Secretary Smith for a presentation. **Deputy Secretary Smith** responded that it was very appropriate for the Natural Resources Board meet on April 22 as this is Earth Day. He then reflected on the history of Earth Day on its 33rd anniversary. He further stated that Secretary Hassett was with Governor Doyle today visiting several sites celebrating Earth Day, where the Department and partners have used Stewardship Funds to protect habitat and offer great outdoor opportunities to the public. Acting Deputy Secretary Smith spoke of the Year of the Water. The Board Members were presented with a packet of information regarding the Year of the Water. He then showed a video of what the Department is doing to help employees and other citizens observe Earth Day.

ORDER OF BUSINESS

1. Minutes to be approved.
- 1.A. Full Board Minutes of March 26, 2003.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, approval of the Full Board Minutes of March, 2003, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

- 1.B. Agenda for April 22-23, 2003.

Chairman Solberg requested under Committee of the Whole Item 3.A. the Presentation of the Rebecca Wallace Award be moved to April 23, 2003.

With that change, Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler, approval of the Agenda for April 22-23, 2003, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

2. Ratification of acts of the Department Secretary.
- 2.A. Real estate transactions.

Mr. Willett MOVED, seconded by Mr. Ela, approval of the real estate transactions, as printed. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

3. Committee of the Whole.3.A. Presentation of the Rebecca Wallace Award by Secretary Hassett.

Rebecca Wallace was an environmental engineer with the Department of Natural Resources, Water Resources Management Bureau, since 1979. At the time of her death she was Chief of the Non-point Source Pollution Abatement Program. Becky was a persistent advocate for improvement and protection of Wisconsin's water resources. Her vision for the State's Non-point Program was clear and succinct: "Clean Water". In February 1997, the Natural Resources Board passed a memorial resolution honoring Becky Wallace. As part of that resolution, the Board established the Rebecca Wallace Memorial Award. The award is given annually to an employee making the greatest contribution toward either the improvement of relationships with external partner agencies and organizations on environmental quality issues or mentoring of Department staff. Secretary Hassett, joined by the Wallace children, Jeremy, Mitch, and Spencer, announced that Nancy Larson, Northern Region-Spooner/Ashland Service Centers, Division of Water, Lake Superior Coordinator, was this year's winner of the Rebecca Wallace Award. Nancy has a long history as a champion for protection of Lake Superior and is highly regarded by resource staff in our state, neighboring states, and in the Canadian province of Ontario. Representing Wisconsin, Nancy is widely respected in interstate and international circles as a tireless advocate for Lake Superior protection. She contributes technical abilities for interstate and international planning on the Bi-National Program to Protect Lake Superior. Nancy has accomplished some very effective mercury awareness and reduction efforts. She has bridged the gap between EPA and the needs of basin residents and improved their ability to act on Lake Superior issues.

Ms. Nancy Larson stated that it meant very much to her to accept this award in Rebecca Wallace's honor. She also stated that it meant a great deal to her to have Rebecca's sons present to accept the award. She thanked them for coming. She stated that it is important to remember the work of Becky and to keep her legacy going. Ms. Larson stated that it is a great privilege to work in public service to protect the waters of the state and she has the special privilege of working on one of the greatest water bodies of the world, Lake Superior.

3.B. DONATION - from Friends of Mead-McMillan Association for a gift of \$950,200 for the Administrative and Educational Facility at Mead Wildlife Area.

Acting Deputy Secretary Smith presented the donation from the Friends of Mead-McMillan Association and introduced Dr. Kent Hall. Acting Deputy Secretary Smith spoke of the background of this donation. The main scope of this effort involved fundraising to cover a legislative requirement that a portion of the project came from the private sector. The original plan called for a 4,400 square foot facility. They have been extremely successful in generating community support in funding this project. They reached the initial \$75,000 in the first three months and provided a unique opportunity to enlarge the project to a more appropriate facility. In 2002 the planned facility was increased to 7,440 square feet and the budget increased to \$1,556,000. Of which \$942,000 is provided by the Friends in cash and kind donations. This project is an outstanding example of the kinds of things that can be accomplished in working together in partnership. Acting Deputy Secretary Smith presented an Acknowledgment of Gift to Dr. Hall.

Dr. Hall, Chair of Fundraising Committee, Friends of Mead-McMillan Association, Incorporated, accepted the plaque gratefully as a representative of the Board of the Friends. He pointed out they started with \$6,111 in state money and their goal was to raise \$75,000 to release the state money for use in the building. In three months they had that amount and decided to go forward with additional fund raising efforts. He stated that they had the chance to get \$135,00 in kind donation from Wausau Homes. That \$135,000 turned into \$740,000 when the Chair of Wausau Homes decided that he would build the building basically from the slab up. This helped them to reach the \$950,000 goal. Dr. Hall presented a model of the building. He stated that he thought this building will be crown jewel in the gems of the educational systems through the Department of Natural Resources. Grants were received for \$100,000 worth of energy technologies. Their goal is to produce a zero net energy building. They also are working with their architect, Tom Brown, to

make this a certified building by the U.S. Green Building Council. If they achieve both of those goals, it will be the only such building in Wisconsin. Dr. Hall pointed out that, not only has this been a cooperative effort on the part of Tom Brown and the Friends fund raising abilities, but it would not have moved forward without Tom Meyer, the Superintendent on that property. Dr. Hall thanked the Board for helping them make this possible.

Mr. Behnke MOVED, seconded by Mr. Ela, acceptance of the donation. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

3.C. DONATION - from Frank and Mariana Weinhold for a gift of a whooping crane print.

Beth Goodman, Whooping Crane Coordinator for the Wisconsin DNR, Bureau of Endangered Resources, presented the Donation of the gift of a whooping crane print. She stated they are starting the third year of re-introducing the endangered species of the whooping crane not only to Wisconsin but to Eastern North America. There now are 20 whooping cranes back in Wisconsin, after spending the winter in Florida, with one on the way back. The whooping crane partnership is a consortium of public and private organizations that came together, to work together, to restore this magnificent bird. They would not be having the success that they currently have if it had not been for private individuals. Ms. Goodman introduced Ms. Mariana Weinhold, one of the biggest private supporters in the State of Wisconsin. Mrs. Weinhold and her husband Frank own property on the Wisconsin River, Wisconsin Dells, and have been supporters of this project since the very first flight of whooping cranes left behind ultralights in the fall of 2001.

Ms. Mariana Weinhold stated that after having the wonderful experience of watching the whooping cranes fly over their bluff on the second day of their historic re-introduction, they commissioned a painting by Victor Bakhtin, who has done a lot with the International Crane Foundation. Ms. Weinhold stated they liked it so much they had several prints made and they thought it was appropriate to have this print somewhere in the Department of Natural Resources. Ms. Weinhold stated that she and her husband are presenting this print as a token of their enthusiasm and their gratitude for the whooping crane project. They have been personally blessed to witness the spectacle of the migration and have met many of the skilled and dedicated DNR and WCDP personnel. She believes that this picture captures the beauty of Wisconsin's landscape and the bright spirit of hope for recovery of precious wildlife resources that should inspire all of Wisconsin citizens. Ms. Weinhold presented the "Whooping Crane Eastern Partnership Inaugural Wisconsin-Florida Flight, dated October 2001, at Louis Bluff, Wisconsin Dells, by Victor Bakhtin dated 2003. She thanked the DNR for supporting this wonderful project.

Acting Deputy Secretary Smith presented Ms. Weinhold with an Acknowledgment of Gift plaque for her and her husband's appreciation and thanked Ms. Weinhold, not only for the print but for their ongoing support for the whooping crane program. He also expressed appreciation on behalf of the citizens, the Department, and the Board.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, acceptance of the donation. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

3.D. Adoption of Order FH-12-03 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing in Lake Michigan - outlying waters.

Mike Staggs, Director of Fisheries Management and Habitat Protection, presented the adoption of Order FH-12-03 pertaining to commercial fishing in Lake Michigan - outlying waters. Mr. Staggs reviewed the background and reasons for the rule proposal. He reviewed the possible reasons for the decline in smelt numbers and the trawl history. Order FH-12-03 has been changed in response to the hearing comments. As originally drafted, it would have reduced the total allowable commercial harvest of smelt from Green Bay from 351,993 pounds to 100,000 pounds, and shortened the trawling season on Green Bay. This modified rule proposal closes the Green Bay trawling season and reduces the commercial harvest limit on

Green Bay to zero. The Department is not proposing any changes to Lake Michigan and that is where the bulk of the fish are being harvested. These changes would remain in effect until July 1, 2008.

Discussion and questions pursued regarding disparity in the 2002 numbers, fishing around Washington Island, smelt disappearing in other areas, the negative in keeping the harvest of 100,000 in Green Bay, public support, self regulating, and the numbers of smelt in Lake Erie versus Lake Michigan.

Chairman Solberg called upon Representative Frank Lasee, who requested to speak on this issue.

Representative Lasee stated that he appreciated the work of the Board protecting the environment working with the Department of Natural Resources. He stated that he represents both the commercial fishermen and the sports fishermen. He eats the fish that commercial fishermen catch and he also eats the fish that he catches when he is out sport fishing. It is an important resource. He stated that the rules that the commercial fishermen have lived under have continually become more restrictive over the last dozen years that he has watched and has paid attention to this issue. He gave examples of these changes. The Department has been continually limiting the rules and then say that the fishermen have caught fewer fish. So, the fishermen are limited more because they caught fewer fish. There is a continuous process of giving a smaller space, less time to fish in, fewer nets to fish, and then use that as justification that one is catching fewer fish. Therefore, you don't need as much quota, we need to make that smaller, we need to restrict even more. Regarding the NR code, Department of Natural Resources talk about our fishery being for all users in the system, not just the sport fishermen or the commercial fishermen. He stated that he is concerned they are slowly and continuously strangling the commercial fishermen off the lake in favor of the sport fishermen. There aren't as many people in commercial fishing, the people they employ are working hard, they are doing their jobs, and many of them are doing other jobs with other commitments. There are more numbers out there, we issue more sports licenses, but many of them are commercial fishermen as well. He stated that he also pays someone to take him out on the lake to help him catch fish and they are making a living being commercial fishermen although they are called sports fishermen. He has a concern, looking at the number of salmonoid species that the State has been stocking. Levels of stocking have been pretty constant over the last seven years. Looking at the chart he referred to, of the number of non-predatory fish and the number of fish the predators feed on, that number is starting to go down quite a bit. It concerns him that they aren't adjusting the number of stocking of predator fish and on the Bay, the levels of walleye that area stocked seem to be pretty consistent as well over the last ten years. This concerns him. We aren't reacting to less forage fish out there and we are continuing to do things as business as usual. It is very hard to predict what the lake is going to do. It is difficult to know. He understands that and appreciates that fact. He doesn't think it is to their benefit, in the long run, to push commercial fishing off the lake. If there aren't any fish in Green Bay, the fishermen won't be catching them. Like last year, they caught hardly any, the conditions weren't right, fish do different things at different times. We have limited the commercial fishermen to certain times that they can fish. The concern that he has by closing down the season completely are, the Department is going to take these five licenses, and they may or may not ever get their license back, and five years from now they may or may not want to get back into fishing on Green Bay. If there aren't any fish to catch, they aren't going to go out there, and they won't be taking any from the resource. Representative Lasee asked the Board to keep these things in mind when they are looking at this issue and voting on it. He referred to a letter from Secretary Hassett to the Board reading, "While the Department biologists do not believe that commercial fishing caused this decline, it is clear that a significant harvest from Green Bay is not realistic and possibly not attainable, 2002 was only 291 pounds". The Department isn't blaming the commercial fishermen for the problem, I wish they wouldn't take it all out on them. Those things have some positive benefits and he asked and he hoped the Board would take this into consideration.

Citizen participation on this item included:

- 1) **Mike LeClaire**, Two Rivers, representing Susie-Q Fish Company, spoke in opposition to this adoption as is. Mr. LeClaire reviewed his credentials. He reviewed portions of the green sheet, of the smelt problem, and predator fish stocking numbers. He also spoke of the predator fish stocking problems. He stated that he didn't wish to have total closure on this because he felt that if this rule is passed it will never reopen again for commercial fishermen.
- 2) **Louie Kowieski**, West Allis, representing Great Lakes Sport Fishing Federation. Mr. Kowieski spoke in support of this rule. He stated that the data and rules speak for themselves and they need to look at the resource. Mr. Kowieski reflected on past fish numbers that were caught. He stated they need to be responsible to what is out there, the resource, and have scientific management. He further stated they were here to save a resource.
- 3) **Charles Weier**, Two Rivers, representing Wisconsin Great Lakes Sport Fishing Federation and Northeast Wisconsin Great Lakes Sport Fishermen. Mr. Weier stated that both these organizations are in total agreement with the Department of the issues as explained and proposed by the Department. He presented the Board with a handout on status of the Rainbow Smelt populations in Lake Michigan and Green Bay from 1987-2002. He further spoke of economics of the sport fishermen and the State of Wisconsin. He requested that the Board have the smelt trawl as a temporary closure on the Bay of Green Bay.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett.

Discussion and questions pursued regarding five year limit, annual executive summary of data, and U.S. data by comparison.

Mr. Behnke offered an amendment that with this moratorium there be test fishing each year to determine reasonable amounts by the Department for these commercial fishermen to go out and give them an idea of what is out there and make the necessary adjustment as time goes on based on what the limited trawling would produce. **Mr. O'Brien** asked if this amendment would include that the testing be reported back to the Board after those tests so they have a chance to be aware of what the situation is. **Mr. Behnke** responded that, yes that would be part of the normal procedure. **Mr. O'Brien** seconded the amendment.

Chairman Solberg asked for further discussion on the amendment. There was none.

The amendment was carried unanimously by those members present. (Mr. Poulson was absent).

Chairman Solberg asked for further discussion on the motion.

Discussion and questions pursued regarding number of fish catch going from 100,000 to zero; commercial sport fishermen; fisheries biologist standpoint; and estimated projection of the next three to five years based on what the Department knows.

Chairman Solberg asked for a final vote on the motion to adopt Order FH-12-03 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing in Lake Michigan - outlying waters, as amended. The order was carried unanimously by those members present. (Mr. Poulson was absent).

4. **Operating Committees.**
- 4.A. **Air, Waste and Water/Enforcement Committee.**
- 4.A.1. **Minutes.** There were no Committee minutes for March 2003 since all agenda items were taken up during the Full Board Meeting.

4.A.2. Adoption of Order AM-34-02 - revision of Chapters NR 445 and NR 438, Wis. Adm. Code, pertaining to control and reporting of hazardous air pollutants and related rules.

Caroline Garber, Chief of Environmental Studies Section, presented the Department's recommendation to adopt a rule package relating to hazardous air pollutants. Ms. Garber handed out an amendment to the green sheet which reflected changes. She spoke on the public hearing process and the outcome of these public hearings. This request seeks adoption of proposed revisions to Chapter NR 445, control of hazardous pollutants, and related chapters. The proposed revisions are the first comprehensive update to NR 445 since its adoption in 1988. These rule revisions are needed so the rule reflects current scientific knowledge about the impact of hazardous air pollutants from the NR 445 tables; and to establish regulatory thresholds, emission standards, permit and emission inventory reporting requirements for the newly listed substances. The revisions propose to establish risk-based thresholds for carcinogens. Emission standards are revised significantly for 116 of the 438 currently listed hazardous air pollutants. The revisions also propose regulations for sources that handle and store coal, and for stationary internal compression ignition engines. The rule revisions are also being proposed to improve the regulatory system by introducing alternative methods for demonstrating compliance and adding measures to reduce, streamline and clarify regulatory requirements.

Ms. Garber stated that this rule will have two major accomplishments. It puts the rule revision, the air toxic program, back on to a science base. The current regulations, the standards, and the chemicals that are regulated are 15 years old. The world of science and technology has been exploding. Second, the major accomplishment of this rule is introducing some new concepts into the regulatory system, which Ms. Garber believes will be more outcome based and more flexible in achieving the ends. She spoke of the stakeholders and their concerns.

Citizen Participation on this item included:

- 1) **Jeff Schoepke**, Madison, representing Wisconsin Manufacturers and Commerce (WMC). Mr. Schoepke spoke in opposition to this proposal. He stated that while WMC has significant concerns about the general approach of NR 445, they have been pleased with the process DNR staff have used to date. WMC supports several provisions in the proposed rule that will clarify, streamline or otherwise reduce costs associated with this ever expanding program. WMC's has general concerns with NR 445 which include: continued use of third party chemical lists as the primary source for NR 445; regulatory thresholds, particularly for carcinogens, that are overly conservative; a state toxic program three times as large as the federal program; an ongoing process of adding chemicals to a state only list that will by its very nature eventually add hundreds of more substances and related burdens on Wisconsin industry; and administrative and related paperwork costs that are still significant with no corresponding environmental benefits. WMC's position is that the DNR Board should move forward with streamlining measures outlined earlier, lessening the already too high regulatory burdens on Wisconsin's manufacturing sector. Allowing companies to take advantage of the streamlining provisions and cut implementation costs of the rule now will remove at least some disincentives when companies evaluate whether to invest in Wisconsin; and the number of state hazardous air pollutant programs.
- 2) **Pat Stevens**, Madison, representing WI Transportation Builders Association. Mr. Stevens was scheduled to speak but canceled.
- 4) **Caryl Terrell**, Madison, representing the Sierra Club. Ms. Terrell stated that she was before the Board to voice her opinion on this issue. She congratulated the Board and the Department for the first comprehensive update to NR 445 since 1988. She spoke of the number of chemicals and the amount of pollutants that are presently emitted in the air by industry today. She stated that the Sierra Club urges the Board to adopt the rule and is anxious to have it adopted.

- 5) **Kerry Schumann**, Madison, representing Wisconsin Public Interest Research Group (WISPIRG), was scheduled to testify, however, she needed to leave early but she left her testimony for the Board's review. Her testimony urged the Board to adopt NR 445, oppose the changes related to prompt disclosure in the errata, and asked the Department to continue to improve public health protections in future processes.
- 6) **David Bender**, Madison, representing himself, stated that he would like to point out the legal problems with the proposal. With a powerpoint presentation, he reviewed a document that was sent to all Board Members prior to the meeting. He pointed out areas that had legal deficiencies in the proposed NR 445 rule revisions. Mr. Bender urged the Board to address these legal deficiencies.
- 7) **Forest Karr**, Madison, representing himself, assisted Mr. Bender with his presentation and shared Mr. Bender's view.
- 8) **Ed Wilusz**, Neenah, representing Paper Council, was scheduled to speak but canceled.
- 9) **Andrew Hanson**, Madison, representing Midwest Environmental Advocates, Incorporated. Mr. Hanson spoke in support of portions and opposed portions of the proposal. He stated that the rules are setting risk base thresholds for public health and the Department of Health should be making those decisions. The Department of Health is the lead agency, as designated by statute, on these health issues. Mr. Hanson urged the Board to ask the Department of Health what their standard practice is when making these kinds of decisions. The model looks at inhalation risk, it doesn't look at ingestion, and it doesn't look at dermal exposure. He urged the Department and the Board to include these multiple ways of dermal exposure, ingestion, and look at the bio-cumulative affects and pathways.
- 10) **Lyman Wible**, Madison, representing Kestrel Management Services, stated that he wished to share the process and the validity of the real cost analysis of NR 445. He spoke of the purpose of NR 445 and the process used. He stated that the Department staff was effective and sincere in its efforts to develop cooperative, useful evaluations of the rule's impact on business and the business impact working group process should be considered a model for the future. He then presented a chart of the administrative costs of first-year implementation of NR 445. He concluded that there appears to be substantial costs and business impacts associated with this rule, when the most robust, full-cost accounting methods of real cost are considered. He spoke of administrative costs versus implementation costs.
- 11) **Hank Handzel**, Madison, representing the printing industries, was scheduled to speak but canceled.

Chairman Solberg stated it has been the Board's policy that they are not more restrictive than the EPA or the federal government's policy.

Discussion, questions, and concerns arose regarding the following: less health risk cost; other states and what level they are at with air pollutant numbers and cost; Wisconsin compared to the federal government regulations; items added to the listing of substances into the air; if the DNR was making the State of Wisconsin less competitive for business and industries with such stringent rules; cost of health care benefits for companies when health problems arise from air pollutants; possible number of companies that would be impacted by this rule; small companies with hardship situations; research of other states and if these other states have taken their regulations to the level of what Wisconsin is trying to adopt; costs other states have; pollution crossing the property lines; ozone pollutants; carcinogens; peer review process; cost analysis; and comparing cost of compliance with companies in Wisconsin and Illinois; green tier; and how competitive Wisconsin is compared to other states. Further concerns were expressed regarding growing Wisconsin's economy and the comparison of cost in compliance between companies and states.

Mr. Willett asked that Board Member Matters, Direct the Department to have a summit on the issue of competitiveness as Wisconsin moves in the direction of adoption of this.

Discussion and questions were asked regarding an independent analysis.

Mr. Tiefenthaler expressed his concern of businesses not coming into Wisconsin because of the cost involved with this rule.

Mr. Behnke MOVED, seconded by Mr. Ela, adoption Order AM-34-02 - revision of Chapters NR 445 and NR 438, Wis. Adm. Code, pertaining to control and reporting of hazardous air pollutants and related rules, as presented. The order was carried by a vote of five to one by those members present. (Mr. Poulson was absent).

AFFIRMATIVE

Mr. Behnke

Mr. Ela

Mr. O'Brien

Mr. Willett

Chairman Solberg

ABSTAINED

Mr. Tiefenthaler

ABSENT

Mr. Poulson

Chairman Solberg stated that because of the lateness of the day, the meeting was convened at 5:30 p.m., and would reconvene April 23 at 8:30 a.m.

4.B. Land, Management Recreation and Fisheries/Wildlife Committee.

4.B.1. Minutes. There were no Committee minutes for March 2003 since all agenda items were taken up during the Full Board Meeting.

4.B.2. Authorization for hearing on revision of Chapter NR 64, Wis. Adm. Code, pertaining to maximum ATV program reimbursement rates.

Larry Freidig, Recreation Specialist, presented the authorization for hearing on program reimbursement rates. The Wisconsin County Forest Association (WCFA) has requested an increase in the maximum reimbursement rate for eligible maintenance expenditures for all-terrain vehicle trails. Unlike the snowmobile trails program, most of the costs statewide in maintaining trails are currently incurred by county forests. With belt tightening occurring at all levels of government, the county forests are seeking ways to fully recover the direct, actual costs of trail maintenance. The proposed change would be from \$80 per miles for winter maintenance to \$100 per mile and from \$220 per mile for summer maintenance to \$450 per mile. Members of the Department's off-road vehicle advisory council has been involved in the discussions and the council endorses the proposed increase. Mr. Freidig requested the Board to approve the authorization for hearing on revision of Chapter NR 64 pertaining to maximum ATV program reimbursement rates.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett authorization for hearing on revision of Chapter NR 64, Wis. Adm. Code, pertaining to maximum ATV program reimbursement rates, as presented. The motion was carried unanimously by those members. (Mr. Ela was absent)

4.B.3. INFORMATIONAL ITEM - State Parks and their Gateway Communities Study.

Peter Biermeier, Chief of External Relations and Planning Section, introduced the informational item on state parks and their gateway communities study. Mr. Biermeier stated that a two-year study was initiated in early 1999 by the University of Wisconsin Madison to study the use of the Wisconsin State Parks and Trails System and its impacts across the state. Face-to-face and written mail surveys were combined with statewide telephone surveys throughout the study period. One conclusion of this study was park and trail visitors recognized that the Wisconsin State Park System does a good job conserving Wisconsin's most significant places for future generations and providing places for quiet and scenic outdoor recreational activities. Parks and trails visitors identified that the Wisconsin State Park System management priorities should continue to emphasize the protection of natural ecosystems and future work should emphasize the

provision of less crowded recreational conditions. The results of the study suggests that the effect of the state parks and trails system on communities throughout Wisconsin is both important and complex. The study reveals some extensive positive economic impact numbers for parks and trails in the State of Wisconsin. Mr. Biermeier introduced Mr. Prey.

Jeff Prey, Program and Planning Analyst, reviewed the following with a powerpoint presentation:

- Research methods
- Relevance of parks
- Assessing overall state park usage
- User demographics
- Recreational characteristics of park users
- Top reasons for state parks/trails
- Preservation of significant places
- Protection the ecology
- How parks/trails visitors spend money
- Impact of out of state users
- Gateway community impacts
- Recreational planning
- Development and research planning

Discussion and questions included: tourism as the leading economic area in the State of Wisconsin and the trend impacting Wisconsin economy.

Mr. Willett requested more work done on the tourism industry impacting the State of Wisconsin. He would like to see how Governor Thompson Park affects a stagnant economy. Maybe this would justify further action in this area of tourism, not just the Governor Thompson Park. **Mr. Prey** responded that through the master planning process they would make economic suggestions.

No action was taken on this informational item.

4.B.4. **INFORMATIONAL ITEM - Crandon Mine Update.**

Melissa DeVetter, Environmental Analysis and Review Specialist, presented the informational item on the Crandon Mine Update. With a powerpoint presentation, Ms. DeVetter covered the following:

- Regional setting
- Project area
- Natural resources
- Key players
- Sale of the property/project
- Proposed Crandon Mine project site
- Soil absorption system and system site
- Tailings management area and reclaim pond
- Outstanding issues
- Stormwater runoff
- Chemistry and transport
- Plant site including mine
- Outstanding issues
- Related tasks
- Re-flooded mine
- Draft environmental impact statement
- Target schedule
- Possible changes to the schedule

Chairman Solberg asked if, with the change of ownership, the permitting process will change, or if it will go on as before. **Ms. DeVetter** stated the permitting process will go on as before.

Discussion and questions pursued regarding new ownership and the permitting process, moratorium, sites, hydrological and geological standards, and independent study.

No action was taken on this informational item.

Dick Steffes, Natural Resources Real Estate Director, presented the following land items:

4.B.5. Governor Tommy G. Thompson Centennial State Park land acquisition - Marinette County.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler, that the Board approve the purchase of 172 acres from Rita Ducaine for \$450,000 for the Governor Tommy G. Thompson Centennial State Park in Marinette County. The motion was carried unanimously by those members present.

4.B.6. Western Prairie Habitat Restoration Area land acquisition - St. Croix County.

Mr. Behnke MOVED, seconded by Mr. Willett, that the Board approve the purchase of 76.84 acres from Ralph and Doris Sette for \$166,000 for the Western Prairie Habitat Restoration in St. Croix County. The motion was carried unanimously by those members present.

4.B.7. Lower Chippewa River State Natural Area land acquisition - Pepin County.

Mr. Willett MOVED, seconded by Mr. Poulson, that the Board approve the purchase of 228.6 acres from William Bowe for \$508,000 for the Lower Chippewa River State Natural Area in Pepin County. The motion was carried unanimously by those members present.

4.B.8. Turtle Valley Wildlife Area land acquisition and donation - Walworth County.

Mr. Willett MOVED, seconded by Mr. Behnke that the Board approve the purchase of 40 acres from James and Elsie Grossman for \$79,000 and to accept the donation of \$9,000 from Dr. Shawn Davies for Turtle Valley Wildlife Area in Walworth County. The motion was carried unanimously by those members present.

4.B.9. Lower Wisconsin State Riverway easement donation - Sauk County.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler that the Board approve the easement donation of 79 acres for Lower Wisconsin State Riverway in Sauk County from Richard and Lenore Taubert. The motion was carried unanimously by those members present.

4.B.10. Rush Creek Natural Area land exchange - Crawford County.

Mr. Ela MOVED, seconded by Mr. Tiefenthaler, that the Board approve of the land exchange of 43 acres valued at \$57,800 for 12.46 acres of land valued at \$23,100 from Thomas Florin for Rush Creek Natural Area in Crawford County. The motion was carried unanimously by those members present.

4.B.11. Nevin Fish Hatchery land exchange - Dane County.

Mr. Willett MOVED, seconded by Mr. Poulson, that the Board approve of the purchase of 4.0 acres from David and Katherine Sebastian and land exchange of 39.66 acres for Nevin Fish Hatchery in Dane County.

Citizen participation on this item included:

- 1) **Ken LePine**, Madison, representing Dane County Parks Department, spoke in support of the Nevin Fish Hatchery land exchange. Mr. LePine stated that this would give the state the opportunity to take the trail off road and also provide parking and access. This parking and access can also be used for the service center. Mr. LePine further stated that Dane County Parks Department has enjoyed partnering with the Department.

The motion was carried unanimously by those members present.

3. Committee of the Whole.
- 3.E. Adoption of Orders WM-05-03 and WM-09-03 - revision of Chapters NR 10, NR 12, NR 19, and NR 45, Wis. Adm. Code, pertaining to Chronic Wasting Disease.

Bill Vander Zouwen, Chief, Wildlife and Landscape Ecology, presented the adoption of the permanent rule pertaining to chronic wasting disease (CWD). The baiting and feeding ban is the most controversial in this rule order. Mr. Vander Zouwen covered the following information in his powerpoint presentation:

- Permanent rule goals and objectives
- Public hearings and public comments
- CWD zones
- 2003 CWD zone map
- Gun and archery season framework
- State park seasons (gun and archery)
- Permit system: Earn-A-Buck
- Why Earn-A-Buck and experience with Earn-A-Buck

Discussion and questions occurred regarding the possibility of doe tags being transferable for earn-a-buck.

Mr. Vander Zouwen continued his presentation as follows:

- Changes in Earn-A-Buck to address concerns
- Registration
- Firearm restrictions
- Replacement tags
- Landowner permits
- Feeding prohibited
- Baiting prohibited
- Public hearings appearance slips
- Written public comments
- Support or opposition to a statewide ban of deer baiting
- Most important reason for not hunting
- Input from organizations and agencies
- Baiting and feeding risks deer diseases and toxins
- Baiting and feeding risks for TB
- Baiting and feeding risks for CWD
- Is allowing a small quantity the answer

Mr. Vander Zouwen stated they do know this is a transmissible disease. He stated the experts that were present at the Science Review Panel (which included scientists and specialists from all over the United States that met with the Board April 22) all believe this is a transmissible disease. They believe that the most likely way it can be transferred is through urine, feces, or saliva. They believe it can accumulate at feeding sites and they know that prions remain infectious for very long times. They know there is a very high prevalence on cervid farms that have CWD, which seems to indicate when you put deer in close

proximity and perhaps eating together there is a better chance of spreading the disease. They know there is a higher prevalence in parts of Colorado that have wild deer with feeding and, in fact, the most recent testing results that came back from an area have a 33 percent infection rate in the wild herd.

Mr. Willett stated that the Science Review Panel stated that they were opposed to any baiting, in any form, including birds. The Science Review Panel didn't say that a small amount would increase the transmission of the disease, they said that any baiting would in any form. The question that wasn't answered was risk management.

Mr. Vander Zouwen continued his presentation:

- Possible risk factors for introduction of CWD or TB can occur statewide
- Deer-elk farm concerns
- Game farm risk without escapes
- Probability of detecting CWD
- Questions to ponder for decision

Discussion and questions developed regarding animals in the wild with CWD; number of deer released on purpose from deer farms; more risk with the game farms than there is from feeding and baiting; the Department has not taken a position on the game farms; game farms with CWD and TB; agency supporting much improved regulations to establish health monitoring and health testing; health history of captive herds; deer farming being considered an agricultural practice; eliminating deer farms; and putting in effect controls of deer farms.

Mr. Vander Zouwen stated the Department is providing the Board with their best recommendation based on biology and what the long term sociology and economics are.

Mr. O'Brien asked if it would be appropriate to issue a recommendation to DATCP to become more serious about these farms. **Chairman Solberg** responded absolutely. **Mr. O'Brien** stated that the Board might need to pass a resolution to this effect. **Mr. Poulson** responded that they worked for a long time to get captive wildlife issue addressed and it didn't come easy. They worked with captive wildlife for a long time to get them moved from DNR to DATCP and it is relatively new. You need to give DATCP some time and an opportunity to address this.

Citizen participation on this item included:

- 1) **Todd Heberlin**, Lodi, representing himself, spoke in opposition to the proposal. Dr. Heberlin stated that he proposes that recreational feeding of big game be allowed on private lands in Wisconsin under a permit system administered by the Department of Natural Resources. He further proposed this to replace a total ban on recreational feeding of big game. Feeding would only be allowed on private land. He then presented his fee structure. He stated that his proposal is a compromise and hoped that he would have the support of the Board.
- 2) **Bob Ehlenfeldt**, Madison, acting State Veterinarian, DATCP, spoke in support of the proposal. With a slide presentation Mr. Ehlenfeldt stated that baiting and feeding is not only about CWD. He stated that baiting and feeding transmits several other diseases. Whenever there is any animal to animal transmission, the more contact there is, the more diseases will be transmitted. He specially spoke of TB and an imported heifer from Michigan and the losses that were involved. Dr. Ehlenfeldt stated that he does not support baiting and feeding, that science does not support baiting and feeding, and that the practices should be banned permanently.
- 3) **Jim Ruwaldt**, Madison, representing Wisconsin Chapter of Wildlife Society, spoke in support of the proposal. He stated that the status of CWD at this point in Wisconsin allows the state to try and control the disease. He further stated they need to follow what science is telling them, that with transmissible diseases, limiting animal to animal contact, reducing populations, and elimination of unnatural concentrations is important. Mr. Ruwaldt stated that Wisconsin Chapter of Wildlife Society is on record for supporting the

emergency rule and the permanent rule, consistent with known science. He urged the Board to approve the permanent rule to allow the DNR to implement special hunts, to seek to reduce deer numbers in the CWD eradication zone, and to prohibit deer baiting and feeding statewide.

- 4) **Larry Bonde**, Kiel, representing Manitowoc County Fish and Game Protective Association, spoke in support of the DNR proposal. He presented the Board with a booklet entitled "Manitowoc County Fish and Game's Concerns Regarding Proposed CWD Rules". Mr. Bonde stated that the concern the Association has include deer and elk farms in Manitowoc County. He reported on specific farms having problems. He further stated that along with the support from the Manitowoc County Fish and Game Protective Association he also presented letters from the Brown County Conservation Alliance, the Sheboygan County Conservation Association, the Calumet County Sportsmen's Alliance, and the Manitowoc County Land Conservation Committee urging the Board to pass the adoption.
- 5) **Mark Toso**, Roberts, representing WI Deer Hunter's Association, spoke in support of the proposal. He stated that feeding and baiting is detrimental to deer and those in favor of continuing feeding and baiting are those that have an economic interest. He spoke of bringing animals to the state with CWD and TB. He further spoke of the Minnesota deer harvest which increased five percent with the third highest deer harvest on record without baiting. In Kentucky deer hunting license sales are down eight percent because of CWD concerns in Wisconsin. In Michigan, where baiting is allowed, they had one of the worse seasons in recent years and a ten percent drop in deer hunters. Mr. Toso stated that a compromise on feeding and baiting is not workable. Mr. Toso urged the Board to end baiting and feeding before it is too late.
- 6) **Jeff Lauterbach**, Hartford, representing himself, spoke in opposition to the proposal and stated that he supports baiting and feeding. He spoke of the land that he owns. He stated that every hunter should be allowed to hunt as he sees fit. Mr. Lauterbach reflected on his hunting career. He asked to put the older hunters on the same hunting field as the younger hunter by using baiting and feeding. He asked where the proof was that baiting and feeding is bad for deer. He reflected on the number of deer on his farm. Mr. Lauterbach asked the Board to take the hunter into consideration by allowing baiting and feeding in all parts of the state.
- 7) **Patti Rantala**, Iron River, representing herself, spoke in support of baiting and feeding. She stated that she and her husband own and operate a feed mill. She stated that she is 100 percent against the ban on baiting and feeding. She reflected on people in her area that have been getting fined for bird feeders. She stated that this ban has been an economic disaster for many businesses including their own family feed mill. Ms. Rantala further stated that unless there is solid proof that feeding spreads CWD there should not be a ban. She asked the Board to speak for the people and allow baiting and feeding.
- 8) **Tim Landolt**, Oshkosh, representing himself, was scheduled to speak in opposition to baiting and feeding, but canceled.
- 9) **Mike Campbell**, Neenah, representing himself, spoke in support of baiting and feeding. He stated that his livelihood revolves around wildlife. Mr. Campbell stated that the DNR and DATCP has been against baiting and feeding from the start. He stated they rely on expert studies of which, when looked into, tend to be more of an anecdote in nature than based on fact. Mr. Campbell reflected on specific years and zones of archery and gun kills. He felt the DNR needs to focus more on the source of where CWD has come from, with much evidence pointing to captive wildlife and game farms. He spoke of loss of revenue and license sales. Mr. Campbell presented a signature listing of over 1500 people that have reservations on the ban of baiting. He asked the Board to consider lifting the ban on baiting and allow one to two-gallon limits.
- 10) **Steve Ellwood**, Osseo, representing the Prince Corporation, spoke in support of baiting and feeding. He stated that this issue is highly political and CWD has given voice to naturalists that never believed in baiting or feeding of animals of any kind. CWD also has become a rally point for the DNR at a time of economic strain and budget deficit. He stated that the numbers that the DNR presents are not statistically

sound. He stated that if his business felt for a moment that this ban would prevent CWD he wouldn't be here to ask the ban to be lifted. Mr. Ellwood feels the best thing to do is keep the deer herd down and have strict control of transporting deer and elk into the state. He feels there is no evidence that baiting and feeding promotes CWD.

- 11) **Andy Arbs**, Eau Claire, representing Voices of Wisconsin, spoke in opposition to the DNR Proposal. He stated that the economy is worse than ever and they can't put small businesses out of business at this time. Mr. Arbs stated that there are 500 to 600 deer that have had chronic wasting disease since 1964. He further stated that his insurance agency deals with family farms and restaurants, and this ban is hurting them. He stated that the answer isn't increasing license fees. Mr. Arbs presented 15,000 signatures that were taken in the last 30 days to continue baiting. He said it is time that the sportsman take Wisconsin back and let them do the voting and dictating on what is going to happen.
- 12) **Jerry Green**, Eau Claire, representing himself, spoke in opposition to the proposal. He commented that the deer population numbers last year, before the hunting season, were high. He stated that he continues to read literature that chronic wasting disease spreads laterally, orally, through feces, and urine. Mr. Green stated that the scientific data has proven that it doesn't and this scientific data comes from independent scientists that says it doesn't. Mr. Green stated that the DNR wanted to ban baiting and feeding for years and when they found chronic wasting disease they thought this was the time to do it. He thought the sportsman needs to have some of their rights back in making their own decision on how they hunt. He asked, with the support of the Board, that they get things back to the way they use to be.
- 13) **Rich Kirchmeyer**, Prentice, representing himself, was scheduled speak in support of baiting and feeding, however, he canceled.
- 14) **Fred Hoffman**, DeForest, representing himself, spoke in support of the ban on baiting and feeding. He stated that he is very concerned as a deer hunter and a public land hunter. He stated that he supports the ban on baiting and feeding statewide. He thought the DNR didn't go far enough. He further spoke of his past hunting seasons.
- 15) **Wayne Schroeder**, Appleton, representing himself, spoke in favor of the ban in the diseased zones as in the final report. He stated that two-gallons of food is not going to attract or keep deer in an area. The food plots, agricultural areas, and logging operations hold more deer than the two-gallons will. He stated that he was one of the authors on baiting and feeding on Deer 2000. Mr. Schroeder spoke of businesses losing money up north because of the baiting ban.
- 16) **Casey Edwards**, Mason, representing himself, stated that he is cofounder and Vice President of the Voices of Wisconsin. He stated that the Voices of Wisconsin and he have logged hundreds of hours connecting with people nationwide. The voice they are hearing more and more from the citizens of Wisconsin is they are feeling deceived with what the DNR has done. They felt from the start this has been a political agenda. He spoke in support of baiting and feeding. Mr. Edwards asked the Board not to mix politics with science. They want the scientists, the lab, the documented tests, or the written statement that this is transmissible. Mr. Edwards stated that he felt the DNR doesn't have the proof that this is transmissible.
- 17) **Robert Denman**, Iron River, representing himself, spoke in support of baiting and feeding. He stated that he doesn't hunt anymore. He feels that the deer to deer contact and one size fits all ban isn't working and a ban is not the common sense approach. The JCRAR came up with a program and the DNR didn't like it. He spoke of the elderly enjoying feeding and watching these animals. He disagrees with the DNR's proposal to ban recreational feeding.
- 18) **Tim Zwettow**, Washburn, representing himself, was scheduled to speak in support of baiting and feeding. However, he was not in attendance.

- 19) **Steve Basl**, Michigan, representing himself, spoke in support of lifting the ban on baiting and feeding. Mr. Basl presented the Board with research papers that he referred to in his presentation. He spoke of the researchers definition initially and the definition now. He stated that from the research that he has conducted he has found that prions can be recycled through the food chain and are found in other parts of the body not just the brain. He spoke of the genetics of the prion and how it is possibly transported. He stated that the act of baiting is irrelevant to the spread of the disease, given the supplement doesn't contain any of the components especially the chemical triggers. Mr. Basl stated that he felt all the scientists, because they are all so specialized, must share their information with one another.
- 20) **Roger Mlsna**, Chippewa Falls, representing himself, spoke in support of baiting and feeding. He talked of deer number populations and the number of deer tests taken for CWD. He stated that he was given the wrong information or inaccurate information from the Department regarding the number of deer killed and the number tested positive. He stated that the general public doesn't trust the DNR numbers. Mr. Mlsna stated that the Board must realize that there is a growing majority that strongly disagree with many of the DNR's decisions and honesty regarding CWD. He stated that the DNR is using a tool to ban feeding and baiting.
- 21) **Greg Minks**, Keenan, representing Mix-Rite Feed Mill, spoke in support of the JCRAR compromise. He further spoke of the definitions of the words opinion and fact. Mr. Minks spoke of his business and three other businesses that have lost a combination of large amount of taxable sales. He urged the Board to accept JCRAR's compromise.
- 22) **Tony Grabski**, Blue Mound, representing himself, spoke in opposition to the EIS and the CWD proposal. He spoke of an eradication effort in Florida in 1937. He stated that the current solution to shoot their way out of this multifaceted problem is far too simple. Killing tens of thousands of deer for the dumpster and reducing the deer to toxic waste unfit for landfills is an insult to human intelligence and a disgrace to the whitetailed deer and our deer hunting heritage. Mr. Grabski urged the Board to vote against these rules and request a more practical, imaginative, and less destructive alternative.
- 23) **Dan Wicklund**, Superior, representing Dan's Feed Bin, was scheduled to speak in support of baiting and feeding. However, he canceled.
- 24) **Robert Barlett**, Eau Claire, representing himself, spoke in support of baiting. He stated that he is a disabled hunter and the hunters that hunt on his land are disabled. Mr. Barlett stated that his disabled hunting partners didn't hunt this year because they couldn't bait. He further stated that when you are limited to where you can hunt because of a disability, you need something to draw the deer to you. Mr. Barlett stated that he thought if you own land and you pay taxes on it, you should have the right to bait. He thought there was no difference in baiting or eating from the same apple tree.
- 25) **John Forseth**, Arena, representing Citizens and Landowners for a Rational Response, spoke in opposition to the permanent rule change. He presented a petition from the Citizens and Landowners for a Rational Response with opposition to the Environmental Impact Statement on Rules to Eradicate Chronic Wasting Disease. He stated that their research shows that eight out of ten people that they found at home when contacted would sign the petition. He stated their efforts were concentrated mainly on the Iowa County side. The sentiment among landowners against eradication runs much higher today and by the DNR's own findings, the CWD plan will not work without landowner participation. Mr. Forseth stated the landowners need to be recognized by the DNR and to become partners in the CWD battle if there is to be any chance of success.
- 26) **Ross Reinhold**, Mt. Horeb, representing himself, spoke in opposition to the proposal. He further spoke of statistics as to the number of CWD cases that would be acceptable. He handed out a statistical chart entitled Random Sampling Requirements for the Detection of Brusollosis or TB in Free Ranging Cervidae. He stated that the one percent of assumed disease positives in the total county population isn't practical. He also spoke of the sparse distribution stations during the hunting season. The sampling methods must

meet the criteria for random samples. Mr. Reinhold believes that the DNR is moving forward in the face of many unknowns with a most extreme and aggressive program and with the invasion of the people.

- 27) **Barbara Linton**, Highbridge, representing herself, was scheduled to speak in support of baiting and feeding, however, she relinquished her time to **Martin Hanson**. Mr. Hanson stated that 35 years ago they went through this when 68,000 tons of heavy metals were dumped daily into Lake Superior. This is a threat to all things and should be considered by the Board. He further spoke of an elk study that was conducted regarding metals. He thought the Department needed further scientific study. He stated that the eradication zone isn't working and he didn't think it would work. He stated that the amount of money being spent could be used for scientific research. Mr. Hanson thought the Board should consider the JCRAR compromise.
- 28) **Dick Limmex**, Spring Green, representing himself, spoke in support of feeding, however, he spoke opposing baiting. He spoke of the revenue being lost. Hunting as we know it is gone forever. He further stated that better testing needs to be done and shooting all the deer isn't going to happen.
- 29) **Phil Muehrcke**, Madison, representing himself, spoke in opposition to the EIS and CWD adoption. He further spoke of eradication zone considerations, game farm considerations, and interstate CWD management. He stated that the Board is being asked by the DNR to endorse permanent rules that are low risk in some parts and high risk in others. He further stated that this inconsistency will not only lead to a failure of the CWD policy but its inequity with respect to those harmed has caused a great deal of frustration and anger. With the eradication zone boundary, Illinois border crossing and game farm threats, it is his feeling that the extreme total kill aspect of Wisconsin CWD policy won't happen. He asked the Board to modify the rules something less than a total kill.
- 30) **Jim Baumgart**, Sheboygan, representing Sheboygan County Conservation Association, spoke in support of the DNR proposal on baiting. As President of the Sheboygan County Izaak Walton League, Mr. Baumgart encouraged the Board to enact the strongest chronic waste disease rules possible. To provide the steady leadership required to insure that they do everything within their power to eliminate the disease in the wild whitetail deer, captive deer, and elk population. He stated that those with a science background understand the difficulty of managing environmental problems in general. He spoke of other disease and the problems they are having in Michigan. Mr. Baumgart stated that his committee worked closely with republicans and democrats, along with the Department of Health, Department of Agriculture, and the Department of Natural Resources, and asked them to come up with the best regulations possible and he strongly supports the rule. He felt they came up with the best possible rule.
- 31) **Mike DeMaster**, Sheboygan, representing Sheboygan County Conservation Association, spoke in support of the proposal on baiting. He spoke of his video "From Field to Freezer" that was prepared by the Association in response to CWD being discovered. He stated that his Association has reviewed the proposed rules to eradicate CWD from Wisconsin's free-ranging whitetail deer herd and they have gone on record in support of the rules as prepared by the Department. Mr. DeMaster urged the Board to vote in support of the rules, as prepared, including a total ban on baiting.
- 32) **Terry Moulton**, Chippewa Falls, representing himself, spoke in opposition to the permanent ban on baiting. He stated that he is the archery retail business. Mr. Moulton stated that the government has three purposes and that is to protect, promote, and punish. Unfortunately the DNR and other forms of government are good on punishment but to protect and promote they have failed. Mr. Moulton presented news articles on bankruptcies in the state. Total number of filings in Wisconsin for 2002 was 25,295. He spoke of the areas in the state where bankruptcies are high. He urged the Board to consider the social and economic impact of a total ban.
- 33) **Steve Gevaert**, Green Bay, representing himself, spoke in opposition to baiting and feeding. He stated that he has followed the scientific study on CWD, the EIS, and the actions of the Board Members for many years. He spoke of TB on game farms and reflected on escaped deer from deer farms. He further spoke of

the stall of the captive wildlife bill. Mr. Gevaert asked the Board to put their personal views aside and urged them to salvage the deer herd of Wisconsin as there is only one chance. He stated that the DNR are trained qualified professionals, and it is their job to make this tough decision and it is the Board's job to support them 100 percent.

Chairman Solberg clarified that this Board, twice voted on the captive wildlife, unanimously. It then went to the Legislature and they didn't do anything the first time they received it but did the second time. The Board totally addressed it and it was a unanimous vote by the Board both times. It was never stalled from this Board. This Board took a strong position and took a lot of political heat on this issue.

- 34) **Rolland Peterson**, Barneveld, representing himself, spoke in opposition to eradication of deer. He stated that he is a landowner in the eradication zone. He stated that his land value and the value of what he produces has taken a direct hit. He spoke of the 2001 and 2002 total deer kill numbers and population goals. He stated that he felt the deer numbers were not accurate. Mr. Peterson stated that the DNR needs to have a public relations effort and talk to the landowners to make them a part of the program if they want to have success.
- 35) **Greg Meissner**, Sturgeon Bay, representing himself, spoke in support of the Ban on baiting and feeding statewide. He stated that his reasoning is that he personally feels this issue is being made way too complicated. If deer start dying from CWD in the eradication zone the land values are going to go down even further. He further stated that at least the Department is doing something to get rid of the problem. As he understands it, is to take the politics out of the process of protecting and enhancing the natural resources of the State. He stated this has not been political from the DNR, he doesn't see any politics in what the DNR is doing. They are doing their best to try and understand this disease, control it, and prevent it from spreading statewide. He stated that if one diseased deer came into the Mount Horeb area how come they ended up with over 200 diseased animals in that area. If it didn't spread through contact how does it spread. It spreads, that is all they need to know. Mr. Meissner asked the Board to do what is best for the resource and keep the special interests and the small groups out of this decision. Send the Legislation a clear message that this is a natural resource that they are dealing with not special interest groups.
- 36) **R. John Propson**, Sturgeon Bay, representing himself, spoke in support of the Ban on baiting and feeding. He stated that he has a wildlife degree. Initially he was a concerned from a hunter's ethics standpoint. Since that time, his views have changed and he is more in tune from the biology standpoint. He stated that the risk they face is incredible, the deer herd could be decimated. He further stated that if the state had to get in a herd buy out program what kind of a budget deficit would Wisconsin have then. Mr. Propson urged the Board to listen to Mr. Keith McCaffrey, former State Deer Biologist, and make the right decision.
- 37) **Donna Wojcik**, Prentice, representing herself, was scheduled to speak in opposition to the ban on baiting and feeding, however, she relinquished her time to Mr. Steve Basl.
- 38) **Jerry Stanaszak**, Milwaukee, representing himself, spoke in support of baiting and feeding. He stated that the main issues are herd reduction, eliminating the deer to deer contact, and who this affects. Mr. Stanaszak stated that 69 percent of the population in northern Wisconsin back baiting. He stated that he hasn't heard any facts that deer to deer contact promotes CWD. He spoke of the deer kill numbers not being on the DNR website. He also spoke of the economic impact in northern Wisconsin being down. Mr. Stanaszak presented statistics regarding deer hunter numbers. He concluded that he bow hunted 21 days last year in Bayfield County and on eight separate occasions from his deer stands, deer were coming into nose to nose contact, and this wasn't over bait piles. He further stated that on these occasions the deer were nose to nose, it is a learned interaction behavior between deer.
- 39) **Keith McCaffery**, Rhinelander, representing himself, spoke in support of the EIS and DNR proposal. He stated that folks that argue to reinstate baiting and feeding of deer are speaking from an economic standpoint and thinking short-term economics. Folks that argue that this is a landowner's rights issue are overlooking the fact that the baiting and feeding ban has nothing to do with their land. It has everything to

do with free-ranging wild deer that are held in public trust to be managed and protected by the State for the benefit of all citizens. Any thought of a two-gallon compromise ignores the fact that this amounts to a ton of shelled corn per site during winter. Multiple family groups of deer will habituate to such a site increasing risk of disease transmission. Wisconsin scientists from Department of Agriculture, Department of Natural Resources, Department of Health and Family Services, the University of Madison, and the U.S. Fish and Wildlife Health Lab have unanimously called for a statewide prohibition of baiting and feeding, not a compromise. Scientists from across the nation and in Canada support this prescription. The Wisconsin Farm Bureau Federation has asked for a statewide prohibition of baiting and feeding. Mr. McCaffery stated that reasonable people will wait to come down on the safe side and continue the complete prohibition of deer baiting and feeding.

- 40) **Vaughn Forster**, Stanley, representing himself, was scheduled to speak in support of baiting. However, he was not in attendance.
- 41) **Kyle Parker**, Black River Falls, representing himself, spoke in support of baiting and feeding. He stated that he thought a lack of copper in a deer's diet should be taken seriously. A lack of copper in an animal's diet will make them more susceptible to any disease. Mr. Parker stated that in CWD areas in Colorado, Wyoming, and in Mt. Horeb, Wisconsin, heavy metal levels in these soils are very high due to the mining that use to go on in these areas. He spoke of a study done in Nebraska regarding copper levels and CWD. Mr. Parker stated that he strongly does not support the ban on feeding and baiting. He thought with issues such as copper levels should be addressed.
- 42) **Al Zeller**, McFarland, representing himself, was scheduled to speak in support and opposition to portions of the proposal. However, he was not in attendance.
- 43) **Gary Ader**, Oshkosh, representing himself, was scheduled to speak in opposition to the ban on baiting and Feeding. However, he was not in attendance.
- 44) **Wade Jeske**, Oconto Falls, representing himself, spoke in support of the ban on baiting. He stated that health issues are enough merit to ban baiting and feeding. As CWD spreads across the state on game farms and there is no insight as to how it spreads or how to cure it. He stated that he is shocked that those who hunt over bait will play Russian Roulette with the deer herd over a hunting technique. He stated that they rely heavily on dairy operations for Wisconsin's economic survival. Mr. Jeske stated that the taxpayer hires the biologist to manage the deer herd, let them do the job they are hired for and not let a hunting technique cloud folks judgment. He spoke of the economic impact.
- 45) **Dave Sabrowsky**, Elcho, representing himself, spoke in support of the ban on baiting. He baited back in the 1980's, did not find it a satisfying method of hunting. As a warden, he found that a very high majority of deer violations were occurring in and around one common denominator, that being baiting and feeding. Baiting and feeding were not only becoming the catalyst of deer violations, but baiting and feeding were making it easier for violators to violate and harder for wardens to catch. Lately the two most popular reasons for bringing back baiting and feeding are the economy is depending on baiting and feeding and there is no proof that the disease is spread by animal to animal contact. He understands the concerns of businesses in northern Wisconsin suffering economic hardship due to the baiting and feeding ban. But, he does not know of one business in his area failing because of a baiting ban and he cannot anticipate northern Wisconsin suffering an economic collapse due to a baiting and feeding ban. The fact is that the best science today supports the total ban on feeding and baiting as supported by the Department of Agriculture, and the majority of state conservation groups. Those advocating baiting and feeding are motivated by selfish concerns. Mr. Sabrowsky asked the Board to support the baiting and feeding ban.
- 46) **Jim Denzine**, Thorp, representing himself, was scheduled to speak in support of baiting and feeding, but canceled.

- 47) **Mark Peck**, Arena, representing himself, presented the Board with his written testimony to review. His written testimony spoke in opposition to the eradication zones. He lives within the eradication zone. His testimony spoke of the current infection rate within areas of the management zone and of using procedures defined within the EIS, the proposed size of the new eradication zone will be approximately 1584 square miles, or just slightly over 1,000,000 acres. In Mr. Peck's written statement he urged the Board to vote against this permanent rule package, CWD with the support from scientists from both Cambridge, and Cornell Universities.
- 48) **John Gatton**, Antigo, representing himself, spoke in support of the ban on baiting. He reflected on his past experience of being a contractor working for the State of Wisconsin picking up and disposing of road kill deer carcasses in seven counties. In five years he picked up a little over 1200 head of deer from the Michigan state line in Forest County to the just outside of the Wisconsin Dells recreation area in Juneau and Adams Counties. He had several sites in these counties that had higher than normal kill incidents. These sites were traced back to either bait boxes or feeder boxes in someone's yard. Some of those sites included Adams County, Highway 13 and County D, there were 23 head of deer within a one eighth mile radius of a feeder box in the front yard. In Lincoln County, Highway 64 and King Creek Road, 15 head of deer within a quarter mile of a feeder box in a yard, less than 100 yards of Highway 64. Marathon County, Highway KK, eight head of deer within one eighth mile of a feeder box in a yard, less than 50 yards from the road. His point, the deer are either coming or going from most feeders. They would not have been there except for artificial means that drew them to those sites. That is 46 cars, three sites, 46 people, 46 accidents, with the average cost to the State of Wisconsin of \$2,000 per accident. That translates to \$92,000 worth of property damage alone, this is without personal injury or worse the possibility of a fatality. Mr. Gatton urged the Board to think about this ban from this view point. He asked if watching, feeding, or hunting over bait worth the loss of one life over this practice. While deer accidents in Wisconsin are unavoidable these accidents were avoidable. Had it not been for those bait and feed boxes, those deer would not have been there. Mr. Gatton concluded that this ban is the best for all of the citizens, for the State of Wisconsin, and their visitors.
- 49) **Samantha Gatton**, Antigo, representing herself, spoke in support of the ban on baiting. She stated that the ban on baiting and feeding should continue. She believes that baiting is wrong because there is no sport in sitting over a bait pile waiting for a deer to come to you. She stated that it is so much fun learning what a deer does naturally. Ms. Gatton urged the Board to help keep the hunting in Wisconsin the way it use to be, learning the animal and finding it on your own, not over apples. She asked the Board to please continue to ban.
- 50) **Gary Voss**, Spring Green, representing himself, spoke in opposition to the DNR proposal. Mr. Voss stated that he lives in the hills near Spring Green just outside of the eradication zone. He stated that the newspaper printed that a UW consultant to the DNR said that the eradication plan calls for no huntable deer population in his lifetime. He stated that this is quite a sacrifice to make, especially when the science is inconclusive. Mr. Voss stated that a few weeks ago the people of Wisconsin approved the constitutional right to hunt and that right is being taken away. He stated that it is easy to draw the conclusion that the CWD eradication plan is an illegal conspiracy for him and his family to be denied their constitutional right to hunt.
- 51) **Jim Blankenheim**, Tomahawk, representing himself, spoke in opposition to baiting and feeding. He stated that he has followed the baiting and feeding issue for the past two decades. He read a portion from a 1930's Wisconsin Conservation Commission record. He stated that what he has been hearing is that people want to continue to profit from the sale of deer feed and they want to continue to train Wisconsin's deer herd to appear at specific spots so their deer can easily be observed or easily shot. This amounts to privatization of a valuable once wild resource. There has been a price to pay for the thousands of tons of corn dumped on the landscape. They have seen deer number drives to the point where Wisconsin's 700,000 deer hunters with multiple seasons and multiple tags, have been unable, in some areas, to keep the deer herd in check. Baiting and feeding curtails natural deer movement and concentrates deer usually on non-hunted or private lands and discourages a natural die off of weak or otherwise inferior animals during the winter months. He

has seen numerous complaints from villages and cities of damage caused from deer lured into residential areas.

- 52) **Kevin Naze**, Algoma, representing himself, spoke in support of the DNR proposal. He agrees to allowing baiting for disabled hunters. Without disease considerations, baiting and feeding are choices that impact thousands of non-baiting hunters and non-feeding landowners. It has also been the most divisive issue he has seen in his 20 years as a writer and 30 years as a gun deer hunter. If it were 2005, after two more years, he would be in favor of limited feeding up north if there was no disease, very limited feeding, not during any hunting season, only in winter or summer so as not to interfere with any deer or turkey seasons. We are dealing with only one year of CWD sampling in much of the state. Mr. Naze stated that he supports the DNR rule as proposed with no compromises at this time.
- 53) **Greg Kazmierski** Waukesha, representing the Wisconsin Deer Hunter Coalition, spoke in support of baiting and feeding. There has been very little change in last years emergency rule and what is being presented now. With archery license sales down 15 percent, archery kills down of over 40,000 deer, gun license sales down 10 percent and the harvest down 10 percent, the eradication hunt seems to be totally ineffective in unit 78. In 1996 that unit harvested 50 deer per square mile. He stated that he spends his entire day dealing with hunters and the Department needs to start to look at the problems. There were only 1200 people that showed up for the CWD hearings. There were only 4800 people that showed up for the spring hearings this year, the lowest seen in years. Mr. Kazmierski presented a case scenario if the Board would reject this permanent rule. Mr. Kazmierski asked the Board to reject both rule and compromise.
- 54) **Chairman Steve Oestreicher**, Chairman of the Conservation Congress, was called upon to speak. He stated that speaker number 13, Rich Kirchmeyer, was unable to attend today but did call Chairman Oestreicher. Mr. Kirchmeyer was contacted by some Christmas tree growers who mentioned some of their concerns. These tree growers indicated that when the feeding of deer was legal, and they would feed deer to try and keep the animals away from the Christmas trees, and it was somewhat effective. This past year, since the ban has been in affect, particularly beginning in March to the present, the whitetails have found that the trees are like cotton candy and have done extensive damage to those trees. Chairman Oestreicher stated that the Conservation Congress supports the three year moratorium, which will be down to two years in a few weeks. He was in contact with a number of the Congress' Executive Councilors, the Vice Chairman Ed Harvey and Secretary Al Opall, as to whether or not to hold a special council meeting prior to today's Board Meeting. The overall consensus was to wait two weeks from when the Annual Conservation Congress Convention takes place in Fond du Lac and he would then allow this emotional issue on the floor for debate from all 72 counties. Whether or not their position will change remains to be seen until after the completion of the Convention. At that time Mr. Oestreicher will be present at the Assembly Natural Resources Committee and the Senate Environmental Committee hearing, which is scheduled for May 14, to present the Congress position at that time.

Chairman Solberg requested Mr. Vander Zouwen to clarify the sunset feeding ban for June 2004.

Mr. Vander Zouwen responded, basically they have feeding regulation authority only until June 2004. Whatever is passed today, unless the Legislature puts another bill through, will be done in June 2004 for feeding only. Baiting we have authority.

Discussion and questions pursued on the following: landowner cooperation; Department negotiations on their position of baiting and the eradication zone; the Department not listening to the people; without the cooperation of the landowners the plan is not duable; Science Review Panel of April 22; disabled people with a Class A and Class D license being allowed to bait; and the risk involved with baiting and taking that risk.

Tom Hauge commented on the feasibility of the plan. There is a tendency in this debate to isolate ourselves from the community. If anyone thinks that he takes any pleasure in bringing you a plan that causes this type of action and to the people that I go to church with on a regular basis, to the people that I

sit in the high school gym to watch our sons and daughters, then they don't know me or anyone in the Department very well. We are not some group that is trucked in everyday and have no connection with the community. We live in the midst of all of this. There is a tremendous amount of heartache and loss in our spirit in having to do this. He wanted the Board to know they understand that and they pledge they are going to constantly be looking for every new tool to battle this disease. He hoped that, 14 months later, that everyone in this state agrees this is one tough disease to deal with. The plan that is being brought forth today is not a guarantee that they are going to eradicate the disease. It is one plan that offers some tools they can use. Whether individual folks use them or not, we can't force anyone to do that. He cautioned against the red map of a statement made by a citizen earlier today of their position of killing deer. He presented a map simply showing the number of deer killed by section. Looking north to south, east to west, you see a smattering of deer kills. If you read the petition that was circulated last spring, there are a lot of noble things in this petition, such as research, test the areas in the surrounding units, in the same fashion that the Department did back in March and April. They did that. The petition requested testing the rest of the state to see if CWD is there. Yes, they would like more samples. The Department did the best job they could, it took 1200 people to try and accomplish 40,000 samples. Mr. Hauge thought that was a compromise to the folks that have concerns. Do more research. There isn't a state in the country that has a better or more developed research plan than what the State of Wisconsin has. We can't do it all, we have to be part of a national network. If Wisconsin had the capability to come up with a dip test, we would love to be able to do that. That isn't part of DNR's resources to do that. In all of this, people talk about the cost involved and what we are trying to do here, think about the cost of trying to test 300,000 deer and do it on a regular basis. What he is trying to indicate is this is a tough disease to deal with. There has been debate of whether this is a transmissible disease. The Department wasn't the first to call it a transmissible disease. U.S. Animal Health Organization, Center for Disease Control World Health Organization, we didn't coin that term. These are folks that know something about disease. To us, when you look at that pattern of distribution out there, that seems very consistent with a disease that is transmissible and is spreading. Not a disease that is necessarily driven by mineral deficiencies. I think that most folks that are involved in animal health disease would reach the same conclusion. This plan is not a guarantee, it is the best shot that the Department can offer the Board right now. As we said in Mt. Horeb on March 20, 2002, the landowners and hunters are going to be the key. The Department will try and answer all the questions that will come up and they have a right to have those questions answered. What is the other alternative, let it spread and do nothing. Mr. Hauge stated that he thought that isn't an alternative.

Mr. Behnke responded, at the Science Review Panel gathering April 22, with all the people present, the scientists and veterinarians, the bottom line was "are these people doing the right thing". Their answer was what else could they be doing. The scientists and veterinarians, and experts at this meeting agreed that the Department and staff are on the right track, they are doing the right thing. He didn't know why folks were questioning this.

Chairman Solberg stated that he personally isn't questioning this. He believes there is no stopping this. That is his personal opinion, it is going to go and there is no stopping it. Years ago there were only deer in northern Wisconsin. It took until 1943 for the first deer to be tracked in Waupaca County. 1952 the first deer was seen in Iowa County. It took awhile. It is going to spread. I don't see how we are going to stop it. The landowners are just not buying into this. In the eradication zone, therein lies part of the problem. In his opinion, because we are making a great majority of the hunters upset, they will have less hunters and more deer. This is part of the big problem. This plan, in his opinion is not the answer. He stated that he isn't disagreeing with the scientists.

Mr. O'Brien responded that he came down to the meeting today with an open mind. He thought he knew how he was going to vote, he heard the science experts. They said they are just as concerned in Wyoming and Colorado the same as they are in Wisconsin.

Mr. O'Brien MOVED, seconded by Mr. Behnke, adoption Orders WM-05-03 and WM-09-03 - revision of Chapter NR 10, NR 12, NR 19, and NR 45, Wis. Adm. Code, pertaining to Chronic Wasting Disease, as presented.

Mr. Tiefenthaler made a formal amendment plan as listed below:

PROPOSED BAITING AND FEEDING PLAN

BAITING

Purpose - to attract deer to the general vicinity of a hunting site while not congregating animals

	<u>Proposed New Rule</u>	<u>Existing Rule</u>
Amount	two gallons per 40 acres	10 gallons unlimited hunting sites
Private/Public Land Restriction	a) private land two sites per 40 acres, no permit required b) public land one site only DNR permit is required	not regulated
Season	Opening day of deer bow season Until January 3 rd	not any
Placement	Disbursed over a minimum 20' X 20' area on the ground	in a pile
T-Zones	no restriction	no restriction
Manitowoc County	prohibited for three (3) years	not applicable

FEEDING

Purpose - the artificial placement of an edible food source, either solid or liquid, to attract deer for:

a) wildlife viewing b) deer sustenance, herd enhancement and increased antler development

	<u>Proposed New Rule</u>	<u>Existing Rule</u>
Amount	a) one gallon per site b) two gallons per 40 acres	unlimited unlimited (note: 1,000 # or more per week year round is not uncommon in the north)
Private/Public Land Restriction	<u>Private land</u> a) within 75 yards of an occupied habitable dwelling b) not allowed without DNR permit <u>Public land</u> a) within 75 yards of an occupied habitable dwelling with DNR permit b) not allowed without DNR permit	no restriction
Season	January 4 th to April 15 th	all year
Placement	*disbursed over a minimum 20' X 20' area on the ground	not prohibited - troughs, bunk feeders, automatic feeders
T-Zones	no feeding shall be allowed within any T-zone	no restriction
Manitowoc County	prohibited for three (3) years	not applicable

*NOTE: automatic feeders, troughs, bunk type feeders and any other device in which feed is placed is prohibited.

Mr. Tiefenthaler further stated that some of the feeding that is being allowed near highways needs to be seriously addressed. **Mr. Behnke** stated that he believed this should be a separate motion after voting on the original motion. **Chairman Solberg** responded that they have made amendments to rules for as long as he has been on the Board. **Mr. Behnke** questioned, this rule specifically calls for a ban. Now you are saying you are going to modify the ban. **Mr. Ela** responded, it only applies to the portion of the existing motion which is the entire rule and not the ban.

Mr. Tiefenthaler clarified his amendment, in lieu of banning baiting and feeding. The **BAITING** would have a new portion under the auspicious of: A. amount; B. where it is going to be allowed; C. a seasonal framework; D. manner in which it is placed; E. eliminating any restriction in existing T-zones; and F. waiving in Manitowoc County. For **FEEDING**: 1. wildlife viewing and 2. deer sustenance. I propose to: A. reduce the amount; B. incorporate a private and public land restriction; C. create a seasonal framework; D. regulate the manner of placement; E. eliminate feeding in existing T-zones and F. eliminate feeding in Manitowoc County for three years by prohibiting it there. In addition to the foregoing automatic feeders, trough, and bunk like feeders would be prohibited. There would be no geographical boundary such as the suggested of Highway 10 dividing line, as that makes no sense whatsoever. **Mr. Willett** seconded the amendment.

Chairman Solberg called for a discussion on the amendment:

Mr. O'Brien questioned, you are amending the proposed rule. **Mr. Tiefenthaler** stated, this would be in place of a statewide ban. **Mr. O'Brien** responded, you are amending a proposed rule. **Mr. Tiefenthaler** responded, the prohibition of baiting and feeding on page five would be eliminated and or amended to go along with the outline of my amendment. **Mr. O'Brien** stated, he isn't amending the plan he is substituting. **Mr. Willett** stated he disagreed. He isn't talking about the entire plan but he is talking about one segment and Mr. Tiefenthaler is making an amendment to that segment. **Mr. O'Brien** responded, I think Mr. Tiefenthaler said he was deleting that plan and substituting this one. **Mr. Tiefenthaler** answered, we are going to take a look at the current baiting and feeding prohibition and amend it to the plan that I presented, on a limited basis.

Chairman Solberg asked for further discussion on the amendment.

Mr. Willett responded, this issue has a tendency to cause the Board great stress. That same stress that is at this table is through our citizenry in the State of Wisconsin. I heard some very unfortunate statements from both sides about how the other side is disingenuous and not caring. We can look at the silver lining in all of this and that is, we still do have people who really care. We had 53 people that took a day off and drove down here, we have seven people who take days off and come here every month. We need to step back and take a deep breath because I am concerned that people are going to say things and do things that are inappropriate, like I think some of our presenters did. We should congratulate one another on the fact that we do have the finest deer herd in the United States, that we have the greatest hunting tradition, and we have the finest Department of Natural Resources. What we are doing is debating the preservation of all of that and we need to look at it from that perspective. This issue has no answer because my understanding, after talking to Beth Williams and Steve Schmidt, they agreed to make it work. From a scientific point of view you need the good stewardship of all the people and that is why they have baiting in Wyoming where Beth Williams comes from, and baiting in Michigan where Steve Schmidt comes from. Because there was a compromise. Neither of them liked the compromise but both of them said they had TB in check and brusollosis in check and that was what they were putting their rules in position for, but they didn't have CWD and they didn't know about that. His concern is, if we don't do anything, is it going to be disastrous. Yes it will. Believe me. Mr. Hauge, I applaud you in your position in standing against the wind because you believe in it and that is what you are suppose to do. The same with Mr. Vander Zouwen. You take this personal criticism. I am probably the weaker of the three. I am involved in the community as you are and I find that the citizens feel that we are not listening to them and not taking them into consideration. Why

I am voting for this, is I do think that there is a small compromise to bring these people on board because we need them to make this work. We do face a crisis. I am just trying to find a way to do that. This is concerning to me because I have never experienced this in twelve years and I have never seen our citizens take into each other in this way. Some of them were professionals and I was really disappointed in that. As a result, I am still looking for some way to heal this and still do what we need to do. What Chairman Solberg is saying about the hunt is that even though, from a theoretical argument, there is going to be some passive of CWD, in a limited context in a risk management situation, can we take that risk if it is to heal this schism that is among us and bring everyone to the table to come to a solution. There is no question what the vote has been since October, four to three, and we know that. We have discussed this with our neighbors, our friends, and our politicians, nothing has changed. What has changed, unfortunately, originally in June was we have a problem, it is now I have a problem and those people don't understand my problem and they are going to destroy my industry or my way of life or my deer herd. We don't need to be there. If we continue in that direction we are going to destroy what we are trying to save. That really concerns me.

Mr. Ela responded, I think that there is one overriding consideration and that is why I am going to vote against this amendment. That is we always have to keep in mind both the consequences and the irrevocability of being wrong. If I vote for the ban and I am wrong, and I would hope that I would be proven wrong and the sooner the better, I will be needlessly harming a number of people that appeared here today. That is something that I would regret. If I vote for a compromise that goes against my interpretation of the best science, as it was presented to me, and I am wrong, we can destroy the Wisconsin deer herd. The economic and cultural consequences of the Wisconsin deer herd are orders of magnitude greater than the consequences of being wrong in the other direction. In an uncertain world, 99.9 percent of the things that we do in life are based on uncertainties not fact. Judging the consequences is important. Also, the irrevocability. Based on the scientific evidence presented to us, this is our one shot of devising a strategy that is going to control this disease. We are not going to have a second shot. That is absolutely abundantly clear. Maybe on the other hand, in two years, we will find out that the science that has been presented to us is not correct. Or maybe we will find out, with a much greater degree of certainty than we have now, that there are no existing positives around the state or that we have mechanisms in place that they are not likely to be. In that case, we can revisit the question. The damage that we have done to certain people will have been irrevocable but we will have had controlled that damage. There is no second shot if we lift the ban and we are wrong.

Chairman Solberg asked for a roll call vote on the amendment for the rule to be reviewed in two years and that the rule be made permanent until the Board acted otherwise. The roll call vote was as follows:

AFFIRMATIVE

Mr. Willett
Mr. Tiefenthaler
Chairman Solberg

NEGATIVE

Mr. Behnke
Mr. Ela
Mr. O'Brien
Mr. Poulson

The amendment failed with a vote of four to three, by those members present.

Mr. Willett presented an amendment to move that this rule be reviewable in its total in two years, a full review. **Mr. Tiefenthaler** seconded.

Chairman Solberg asked if there was further discussion on the amendment.

Mr. Willett, as Mr. Ela pointed out, this might be our one shot but the scientists can't tell us how this disease is formed and how it is transmitted. It wouldn't be a sunset. **Mr. Tiefenthaler** asked what constitutes a full review and specifically, do you want to mention baiting and feeding. **Mr. Willett**

concern about the rule in general of the people in this area with other concerns. We need to see what happens to the science. Mr. Ela responded that this Board can say that in two years we want a full scale review from the Department of Natural Resources.

Chairman Solberg asked for a roll call vote on this amendment.

AFFIRMATIVE

Mr. Behnke

Mr. Ela

Mr. O'Brien

Mr. Willett

Mr. Poulson

Mr. Tiefenthaler

Chairman Solberg

NEGATIVE

The amendment was passed unanimously by those members present.

Mr. Tiefenthaler requested to make an additional amendment provision to the original rule as proposed: that we allow a provision for disabled baiting, Class A and Class C licenses for disabled hunters, to allow them to bait in a limited fashion along the same guidelines as first presented, to allow them to bait for the beginning of bow season through January 3. Mr. Willett seconded the amendment.

Mr. Behnke responded, Mr. Chairman this is contrary to the main motion because the main motion calls for a permanent ban on baiting. Chairman Solberg responded, he is saying with one exception. Mr. Tiefenthaler responded, this is a waiver for Class A and Class C license holders. Mr. Ela stated that he is sympathetic with it but he is uncomfortable with it because he doesn't understand all of the ramifications. He wondered if there was some mechanism to approve this specific question at a later time. Mr. Willett stated that he agrees with Mr. Ela on this, he thought it might be a civil rights issue and it is bigger than what they might think it is. Therefore, he would like to defer this and hear from the lawyers and the disabled community.

Mr. Willett moved to table the amendment. Mr. Poulson seconded the motion to table.

Chairman Solberg called for a roll call vote.

AFFIRMATIVE

Mr. Behnke

Mr. Ela

Mr. O'Brien

Mr. Willett

Mr. Poulson

NEGATIVE

Mr. Tiefenthaler

Chairman Solberg

The vote was approved by a vote of five to two by those members present.

Going back to the original motion Chairman Solberg asked for further discussion.

Mr. Poulson responded, that any time that they have gone through animal health rules and regulations of this kind, he thinks of when he was just a small child when brucellosis was a problem. He said they lost a herd with that and it was tough but they made it through. They had neighbors that were unhappy and wouldn't vaccinate and wouldn't have any part of it. But they were able to eradicate brucellosis. They went through the TB testing and no one liked that but they went through it because they had to. They had a large dairy herd in the state, at that time there were 140,000 dairy farms in Wisconsin, they are now down to 17,000. We went through it because we had to. Once again there were meetings where people would

grumble and were unhappy. These are the kinds of things that I believe that if you are going to perpetuate and protect the health of the species that we have in the state, when you put the dairy herd, the beef herd, and the deer herd together, you have over 5,000,000 animals on the ground in this state. That is a big herd to keep healthy. I feel it is my obligation to try and keep this herd as healthy as we can keep it and if there is a problem we have to do what we need to do. **Chairman Solberg** responded, that he agrees. It is unfortunate that someone or somebody brought this disease into this state and it is here. I don't think that we can control it.

Mr. Behnke responded, they also lost their herd too when he was a young boy. Fortunately, they were able to survive with scrub cows that his Dad bought with the money he got from the indemnity dollars they received for those animals. They could not make a living off of their cows for about five or six years. Some of the neighbors lost their farms. When you talk about economic hardship, this can spread. I think we have no choice, we have to protect our resources, our domestic cattle, our wild animals, and if we are inconvenienced because they can't bait and feed and it is tough right now, maybe sometime in the future we can realize that but we can't do it today.

Chairman Solberg stated that the question has been called. He stated that all those in favor of the original motion will signify by saying yes those opposed no. A roll call vote was taken:

AFFIRMATIVE

Mr. Behke
Mr. Ela
Mr. O'Brien
Mr. Poulson

NEGATIVE

Mr. Willett
Mr. Tiefenthaler
Chairman Solberg

The motion passed by a vote of four to three, as amended with full review in two years, by those members present.

- 3.F. Retirement Resolutions.
- 3.F.1. Ken Christopherson.
- 3.F.2. Dave Evenson.
- 3.F.3. Roger Gerhardt.
- 3.F.4. Duane Ketter.
- 3.F.5. Donald Mezei.
- 3.F.6. James Stewart.

Secretary Hassett reviewed the careers of each retiree and commended them for their excellent years of service to the Department and the State of Wisconsin. **Mr. Poulson MOVED**, seconded by **Mr. Willett**, approval of the retirement resolutions, as presented. The motion was carried unanimously by those members present.

- 5. Board Members' Matters.
- 5.A. **Herbert Behnke** - Nothing.

- 5.A.2. **Jonathan Ela** - Nothing.

- 5.A.3. **Gerald O'Brien** - presented a Resolution. He stated that he would like to follow-up on the earlier comment regarding a request for the Department of Agriculture. He felt like their hands were tied with regard to checking the deer herd. His resolution read as "The Wisconsin Natural Resource Board requests the Department of Agriculture to take immediate steps to do whatever is necessary to prevent the spread of chronic wasting disease on captive wildlife farms". **Mr. Tiefenthaler** seconded for the purpose of discussion.

Chairman Solberg stated that he felt the Resolution was proper, however, he added that maybe it should go further in the case they may have to discontinue these farms.

Mr. Behnke stated that he agreed and he understands, however, he wondered if it could be misinterrupted by DATCP.

Mr. Tiefenthaler responded that he thought it might be.

Mr. Poulson requested the Secretary's response to the Resolution.

Secretary Hassett responded that he preferred that the Board let him speak to Secretary Nilstuen. They have looked at what has been done in other states around the country and there are a big variety of things that were done. Some states have bought out these farms but a lot of that was done in the 90's when there was a lot more money around. So, that might not be something that is very practical here and now. There are a lot of other things in the spectrum that have been done and he thought that it might be better for all of them to have a better idea of what the options are and have a dialog with the Department of Agriculture before the Board does something.

Chairman Solberg responded, regarding the citizen's comment earlier, that the Board hasn't done anything with captive wildlife when, in fact, the Board has. He stated that he would feel remiss, personally if citizens thought that. For the record, Chairman Solberg stated that now that the Department of Agriculture (DATCP) is in charge of the captive wildlife farms he would like to make sure that this Board feels they should do everything possible to eliminate any risk, whatever the case might be.

Mr. O'Brien responded that he would withdraw the motion with the understanding that at the next meeting or two Secretary Hassett would give the Board a report back as to what the results are with DATCP and what they are doing regarding the captive wildlife farms. **Mr. Tiefenthaler** withdrew the second.

Discussion and questions pursued regarding inoculation and vaccination of cervid animals.

5.A.4. **Stephen Willett** - Requested a report on the Chequamegon - Nicolet Federal Forest Plan.

5.A.5. **Howard Poulson** - Thanked the Secretary for the response to NR 43.

5.A.6. **James Tiefenthaler** - Nothing.

5.A.7. **Chairman Solberg** - Nothing.

6. **Special Committees' Reports.**

There were no Special Committees' Reports.

7. **Department Secretary's Matters.**

Secretary Hassett presented a written report on Feral Cats that was requested by Board Member Ela at the March 26 Natural Resources Board Meeting.

7.A. **DONATION - from National Wild Turkey Federation for a gift of \$5,000 for habitat development on private lands in Green Lake County.**

Mr. Tiefenthaler MOVED, seconded by Mr. Behnke, acceptance of the donation. The motion was carried unanimously by those members present.

- 7.B. DONATION - from Ronald Haessly for a gift of 40 taxidermy mounts and five showcases valued at \$16,125 for exhibit at the Ice Age Visitor Center, Kettle Moraine State Forest.

Mr. Poulson MOVED, seconded by Mr. O'Brien, acceptance of the donation. The motion was carried unanimously by those members present.

- 7.C. DONATION - from Cabela's for a gift of \$5,000 for the Wildlife Management Program to be used to support Wisconsin's efforts to combat Chronic Wasting Disease.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, acceptance of the donation. The motion was carried unanimously by those members present.

- 7.D. DONATION - from Anton Govek Estate for a gift of approximately \$750,000 to be used for the purpose of tree planting on state lands in the northern half of the State of Wisconsin.

Mr. Willett MOVED, seconded by Mr. Behnke, acceptance of the donation. The motion was carried unanimously by those members present.

- 7.E. Memorial Resolution for Beverly Elliott.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson approval of the memorial resolution, as presented. The motion was carried unanimously by those members present.

- 7.F. Request from the Joint Committee for Review of Administrative Rules for Modification to Emergency Orders WM-32-02(E) and WM-15-03(E), Wis. Adm. Code, pertaining to Chronic Wasting Disease Control Efforts. (WM-32-02(E) Adopted June 25, 2002, Item 3.A., Minutes of June 25, 2002, and WM-15-03(E) Adopted January 7, 2003, Item 1, Minutes of Conference Call January 7, 2003)

Discussion and questions pursued regarding feeding after April 30 until the permanent rule goes into affect; ban of baiting and feeding until April 30; two-gallon compromise; people able to bait and feed deer this summer; baiting and feeding in the eradication zone; and the emergency rule ending April 30.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler, the Request from the Joint Committee for Review of Administrative Rules for Modification to Emergency Orders WM-32-02(E) - revision of Chapters NR 10, NR 12, NR 19, and NR 45, and WM-15-03(E) - revision of Chapters NR 10, NR 12, and NR 19, Wis. Adm. Code, pertaining to Chronic Wasting Disease Control Efforts. (WM-32-02(E) Adopted June 25, 2002, Item 3.A., Minutes of June 25, 2002, and WM-15-03(E) Adopted January 7, 2003, Item 1, Minutes of Conference Call January 7, 2003)

Discussion pursued:

Mr. Behnke stated that he thought the Board should not adopt this compromise because it is totally contrary to the permanent rule that the Board just adopted. Why would the Board now, during the summer time when there is very little baiting and feeding going on, adopt a rule that would allow baiting and feeding. He believes the Board should vote not to accept the JCRAR compromise.

Mr. Willett responded, what he heard from the experts, that the whole thing is too risky, so therefore they would loose from now until September or October when the rule is passed. He was not willing to throw the baiting out.

Mr. Behnke stated that there is very little baiting and feeding going on in the summer time.

Mr. Tiefenthaler stated that by the 15th of August folks are going to see huge corn piles in the north to get deer to come into the area right before bow season starts. This is contrary to what the Board said we would do. At least limit it to two-gallons.

Mr. Behnke responded that the permanent rule may be in effect before that.

Mr. Ela stated that this sends a strange signal to adopt a temporary rule that is completely at variance to the permanent rule. He didn't think that anyone would understand that.

Mr. Tiefenthaler responded that it is against no rule at all. It doesn't have anything to do with the permanent rule at this stage.

Mr. Ela stated that he thought the Board should make the argument with the Committee that the original temporary emergency rule should be reinstated.

Mr. O'Brien asked how the language was now to adopt the rule.

Chairman Solberg responded that it would request to adopt their emergency rule on baiting and feeding, which is two-gallons for baiting south of Highway 10, which is mute because there is no hunting season. And, two-gallons of feed any place in the state outside of the management zone behind someone's house.

Mr. Andryk clarified, two-gallons per 40 acres for baiting. Feeding is within 100 yards of a house.

Mr. O'Brien requested to amend the motion to put language in to say "Because there will be no rule against baiting and feeding unless this is adopted, the Board feels it is necessary to adopt until the permanent rule, which the Board adopted today, is put in place".

Mr. Tiefenthaler responded, in lieu of no rule until the new permanent rule goes into affect, the Board accepts or rejects it.

Chairman Solberg again asked for clarification from Board Member O'Brien the wording of the amendment.

Mr. O'Brien MOVED an amendment reading as "because of concerns that there would be no rule in effect for a period until the rule that the Board adopted today goes into affect, the Board adopts the rule that the JCARC has requested". **Mr. Tiefenthaler** seconded the amendment.

Chairman Solberg asked for discussion on this amendment.

Mr. Behnke requested an interpretation from the Department on this recommendation.

Mr. Hauge responded that personally his recommendation would be that the Board pass a resolution requesting JCRAR to reconsider the recommendation and extend the ban. He would hope that JCRAR would at least reconvene and extend the ban at a minimum in the chronic wasting disease eradication zone and management zone. Highway 10, as discussed, there is no magic barrier. In fact, some of those counties and facilities are north of that. He didn't understand why the Board would want to invite a 600-800 pound elk within 100 yards of your house as JCRAR proposes to do. He didn't understand why you would not allow baiting in Manitowoc County but allow feeding. He also didn't know how anyone figures out which 40 acres is which 40 acres.

Mr. Tiefenthaler stated that he thought if the Board doesn't do this, JCRAR will do it. They will then re-write it and if the Board accepts this they at least have an overall guideline for the summer that is very limited, two-gallons per 40 acres. If the Board doesn't they will do it for them and he thought the Department and the Board didn't want the Legislature writing fish and game rules.

Mr. O'Brien stated that his only concern with his motion is that he doesn't want anyone to think that the Board would go along with this because they went through this today adopting the permanent rule. He asked if there was any danger of that.

Secretary Hassett responded, that if the Board wanted a Department recommendation, he has concerns about the motion. He stated that it might make the Legislature that much easier to do what they are going to do. They might say that the Board did approve it for the summer and as far as what we do after that they might try to change the permanent rule. As a practical matter it is going to be heard in the Capitol. The whole issue may override or affirm whatever the Board does today.

Mr. Behnke stated that he thought that both the motion and the amendment should be withdrawn. What the Board should do is adopt a motion indicating that, due to the passage of the permanent rule today, the majority of the Natural Resources Board, would ask respectfully that JCRAR reconsider their April 30 deadline and extend the emergency rule until such time that the permanent rule goes into affect. The permanent rule does not go back to JCRAR, it will go to the Committee's of the Senate and the Assembly. JCRAR has nothing to do with the permanent rule at this time. He thought the Board should withdraw the motions on the table and go back to JCRAR indicating that "due to the fact that the Board adopted a permanent rule, which goes into effect in approximately 60 or 80 days, that JCRAR modify and keep this emergency order in effect until such time that the permanent rule goes into effect". Then we are being consistent. We are asking them to give us the extension until this permanent rule goes into effect.

Mr. O'Brien stated that he withdrew the amendment, **Mr. Tiefenthaler** withdrew the second.

Mr. Tiefenthaler, for clarification, in lieu of a vacuum he knows that if the permanent rule doesn't go into affect until September 1, in August there will be seen massive amounts of grain on the ground which will have a higher risk on the ground, which was two-gallons. They will have it on private and public property in the north, all over, in order to draw those deer in there for the opening of bow season. The two-gallon limits minimizes that risk.

Mr. Behnke stated that may be true, but this is the best of the two alternatives. Having food on the ground is the best of the two alternatives. The other alternative that is worse than that is if the Board does adopt, then the Board is contradicting themselves on their philosophy of disease prevention by not putting any food on the ground. If they want to put food on the ground, they are doing it not the Board.

Chairman Solberg asked if there was any further discussion. If not, he called for vote, with a no vote meaning that the Board is not voting for JCRAR's request and a yes vote meaning the Board is voting for JCRAR's request. No discussion followed. A roll call vote was taken.

AFFIRMATIVE

Mr. Willett
Mr. Tiefenthaler
Chairman Solberg

NEGATIVE

Mr. Behnke
Mr. Ela
Mr. O'Brien
Mr. Poulson

The vote failed to pass the amendment by a vote of three to four by those members present.

Mr. Behnke offered a motion that the Board advise the Joint Committee for the Review of Administrative Rules (JCRAR) review the administrative rules that the Board chose not to adopt their recommendation due to the fact that the Board adopted a permanent rule that goes into affect. And, the Board respectfully asked the Joint Committee for the Review of Administrative Rules to extend the emergency rule until the permanent rule goes into affect. **Mr. Poulson** seconded.

Chairman Solberg asked for discussion on the motion.

Mr. Tiefenthaler asked who was going to write this letter and who would sign it.

Mr. Behnke responded that it is a motion and the Secretary will advise.

Mr. Poulson suggested that we phrase it that the Board has respectfully considered the Joint Committee for the Review of Administrative Rules request.

Chairman Solberg asked if there was any further discussion on Board Member Behnke's motion. There was no further discussion on the motion. A roll call vote was taken.

AFFIRMATIVE

NEGATIVE

Mr. Behnke

Mr. Ela

Mr. O'Brien

Mr. Willett

Mr. Poulson

Mr. Tiefenthaler

Chairman Solberg

The vote passed to reject the Joint Committee for the Review of Administrative Rules (JCRAR) request for modification unanimously by those members present.

Chairman Solberg asked if there was any further business to come before the Board. There was no further business presented.

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Meeting Adjourned at 4:30 p.m.